IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Mark A. Hochwalt, et al.	Examiner: Choi, Frank I
Serial No.: 10/849,721	Group Art Unit: 1616
Filed: May 20, 2004	Attorney Docket No.: 713629.421
For: Compositions and Method for Reducing Odor	Customer No.: 027128
	Confirmation No.: 8654
Last Office Action: August 30, 2005	

DECLARATION UNDER 37 C.F.R. § 1.132

I, Timothy Kellick, declare and say as follows:

1. I earned a Bachelor of Science degree in Civil Engineering at Purdue University in 1993. I am currently and have been for the last two (2) years a Global Technology Manager, Plastic Products, at Solutia Inc. I have thirteen (13) years experience in the chemical industry.

2. I have been involved in the continued development of the subject matter claimed in the above identified U.S. patent application Serial No. 10/849,721 filed on May 20, 2004.

3. I have read and I am thoroughly familiar with the Office Action, dated August 30, 2005, with respect to the above identified application and the patent cited by the Examiner in the Office action: U.S. Patent No. 5,780,020 to Peterson, herein after the '020 patent.

4. I have reviewed the '020 patent.

5. In response to the Examiner's citation of the '020 patent, I make this Declaration in support of the patentability of the claims of application Serial No. 10/849,721.

6. From a chemical viewpoint, it is apparent that the '020 patent utilizes zinc oxide as an antimicrobial agent. The purported intent of the '020 patent product is to prevent a build-up of bacteria over an extended period of time and the resultant odor caused thereby.

7. The invention that is the subject matter of the 10/849,721 application requires substantially immediate remediation of odors. The formation of bacteria over a period of time is not an issue.

8. The subject matter of the 10/849,721 application uses zinc oxide for its ability to bind to sulfide compounds, thus preventing those sulfide compounds to volatilize and become noticeable odors.

9. Several sulfide odor tests were performed during the process of developing the subject matter claimed in the 10/849,721 application. These sulfide tests consisted of creating stock lab solutions containing sulfide compounds. The sulfide compound solutions were added drop wise to the various component mixtures of the present invention to evaluate their performance at absorbing the sulfide compounds. Typically, the odor reducing composition was allowed to treat the stock solution for 2 minutes or less between each sulfide addition. In these controlled lab environments, odor-causing bacteria would not have been present, yet the sulfide odor was still removed by the present invention. Further more, even if bacteria had been present, there was no organic material for the bacteria to feed on and thus produce odors. The entire odor from these tests was from the chemical reaction of the stock solution emitting sulfide gas.

10. Therefore, while it is true that zinc oxide can and is used as an anti-microbial agent in other inventions, it is not this antimicrobial nature that is at work or results in the effectiveness of the present invention. There is not, nor could there be, any evidence that any antimicrobial action was considered or desired in the functionality of the present invention.

11. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above referenced application or any patent issuing thereon.

2/27/2006
DATE

TIMOTHY KELLICK, DECLARANT